

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

In re:)	Case No. 1:18-bk-12585
)	
Suzanne Bair)	Chapter 7
)	
Debtor.)	Hon. Beth A. Buchanan U.S. Bankruptcy Judge

**MOTION OF THE UNITED STATES TRUSTEE FOR
EXTENSION OF TIME TO FILE COMPLAINT OBJECTING TO DISCHARGE;
AND MEMORANDUM IN SUPPORT THEREOF**

Daniel M. McDermott, United States Trustee for Region 9, hereby moves the Court for an order extending the deadline for the filing a complaint objecting to discharge under 11 U.S.C. § 727 by approximately 90 days, for both the United States Trustee and the Chapter 7 Trustee. This motion is based upon the fact that the United States Trustee is currently investigating the appropriateness of filing a § 727 complaint objecting to discharge. This Motion is also based on the attached Memorandum of Points and Authorities, all papers, pleadings and files of record and such evidence as the Court might receive at the hearing on the Motion. Pursuant to Fed. R. Bankr. P. 4004(b) and (c), the discharge is stayed pending the conclusion of this Motion.

Dated: October 9, 2018

Respectfully Submitted:

Daniel M. McDermott
United States Trustee
Region 9

by: /s/ Benjamin A. Sales
Benjamin A. Sales (CO#51551)
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MEMORANDUM OF POINTS AND AUTHORITIES

On July 3, 2018, the Debtor filed a voluntary petition under Chapter 7 of the U.S. Bankruptcy Code. The last day to file a complaint objecting to the Debtor's discharge is October 9, 2018. See Docket entry dated July 3, 2018 and Fed. R. Bankr. P. 1017(e). Eileen Field is the Chapter 7 Trustee assigned to this proceeding.

The U.S. Trustee is currently investigating whether or not it is appropriate to file such a pleading. Specifically, the U.S. Trustee has questions with respect to the Debtor's apparent lack of income, high business debt, and business dealings with Rafterhaus Construction LLC. The U.S. Trustee has requested documents from the Debtor but has not yet received the documents requested. The U.S. Trustee, Chapter 7 Trustee, and Debtor's counsel have also begun preliminary discussions about holding a 2004 examination once the requested documents have been provided. The U.S. Trustee believes that all inquiries into this case will be finished within 90 days. The U.S. Trustee believes that an extension is in the interest of the estate, because if the date is extended, he will be able to determine whether or not any grounds exist to file a complaint under § 727.

The court may extend the date for filing a motion to dismiss under 11 U.S.C. § 707. Fed. R. Bankr. P. 1017(e)(1); *In re Kornfield*, 214 B.R. 705 (W.D. N.Y. 1997) (sufficient cause existed to extend, for 60 days, the time for the United States Trustee to move for dismissal under § 707(b)). The court may also extend the date for filing a complaint objecting to discharge under § 727. Fed. R. Bankr. P. 4004(b) and Fed. R. Bankr. P. 4007(c) (court may extend time for filing a complaint objecting to the dischargeability under § 523(c)).

Three factors should be considered in determining whether to grant an extension of time to file a motion to dismiss: (1) a party in interest must request it; (2) there must be notice and opportunity for hearing; and, (3) there exists good cause for extension. *In re Linn*, 88 B.R. 365 (Bankr. W.D. Okla. 1988) (court granted extension to file complaint under Rule 4007(c)). Such requests for an extension should be granted liberally absent a clear showing of bad faith. *In re Amezaga*, 192 B.R. 37, 41 (Bankr. D.P.R. 1996) ("This court liberally grants motions for extension of time to object to discharge when the need for discovery is the basis of the request."); *In re Kellogg*, 41 B.R. 836 (Bankr. W.D. Okla. 1984).

All the factors required to grant this extension are satisfied: First, the United States Trustee

is a party in interest and is pursuing this matter pursuant to the supervisory duties of the United States Trustee as set forth in 28 U.S.C. § 586(a)(3); and, he is requesting the extension. Second, there has been proper notice and opportunity for hearing. And third, good cause has been shown in this motion. If said Motion is granted, it will be in the best interest of the estate.

Accordingly, the U.S. Trustee requests that an extension of the deadline for filing a complaint objecting to the Debtor's discharge under 11 U.S.C. § 727, be granted.

WHEREFORE, the U.S. Trustee respectfully requests that this Court enter an order extending the deadline for the U.S. Trustee and Chapter 7 Trustee to file a complaint objecting to the Debtor's discharge under 11 U.S.C. § 727 by approximately 90 days, until **January 7, 2018**, and for such other relief as is just and proper.

Dated: October 9, 2018

Respectfully Submitted:

Daniel M. McDermott
United States Trustee
Region 9

by: /s/ Benjamin A. Sales
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CERTIFICATE OF SERVICE

I hereby certify that on October 9, 2018, a copy of the foregoing **MOTION BY UNITED STATES TRUSTEE FOR EXTENSION OF TIME TO FILE COMPLAINT OBJECTING TO DISCHARGE; AND MEMORANDUM IN SUPPORT THEREOF** was served on the following registered ECF participants, electronically through the court's ECF System at the e-mail address registered with the Court:

Eileen Field, Esq., Chapter 7 Trustee
Robert A. Goering, Esq., Attorney for the Debtor

and on the following by ordinary U.S. Mail addressed to:

Suzanne Bair
1800 Tanglewood Dr.
Loveland, OH 45140

/s/ Benjamin A. Sales
Benjamin A. Sales